Supreme Court, U.S.
FILED
001362 FEB 28 2001
OFFICE OF THE CLERK

No.

IN THE

SUPREME COURT OF THE UNITED STATES

Alicja Matczak, et al.,

Petitioners,

v.

J.J. Dahl, et al.,

Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit

APPENDIX

TO THE PETITION FOR A WRIT OF CERTIORARI

Alicja Matczak & Tadeusz Bohdziun
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Saint Petersburg, Fl 33705
Tel. (727) 896-2106

Pro Se Petitioners

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IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

NO. 00-13114-BB

ALICJA MATCZAK,
TADEUSZ BOHSZIUN,

Plaintiffs-Appellants,

versus

J.J. DAHL,
ROHNDA H. GERBER, et al.,

Defendants-Appellees.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

DEC 19 2000

THOMAS K. HAHN
CLERK

Appeal from the United States District Court for the Middle District of Florida

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Before ANDERSON, Chief JUDGE, BIRCH and BARKETT, Circuit Judges.

BY THE COURT:

The appellees' motions to dismiss for lack of jurisdiction are GRANTED. The appellants' pro se notice of appeal, filed in the district court on June 9,

2000, was untimely because it was not filed within thirty (30) days after the entry of the March 23, 2000, Order denying their motion for reconsideration. See Fed. R. App. P. 4(a)(4)(A); Wright v. Preferred Research, Inc., 891 F. 2d 886, 888 (11th Cir. 1990); Wansor v. George Hantscho, Co., 570 F.2d 1202, 1206 n.5 (5th Cir.), cert. denied, 439 U.S. 953 (1978).
The appellants' "Motion to Determine Appealability of the Last Order Filed and Entered in the District Court on May 16, 2000," is DENIED.

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/s/
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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

ALICJA MATCZAK and
TADEUSZ BOHDZIUN,

Plaintiffs,

-v- CASE NO. 5:99-cv-194-Oc-10C

J.J. DAHL, et al.,

Defendants.
_____/

O R D E R

This case comes before the Court for consideration of several pending motions, including

three motions to dismiss (Docs. 17, 20, and 25), to which the Plaintiff has responded (Docs. 22 and 27). Upon due consideration, the Court finds that the Defendants' motions to dismiss are due to be Granted and that all remaining pending motions are therefore moot.

Background and Facts

On May 5, 1999, the *pro se* Plaintiffs initiated this action by filing a complaint (Doc. 1) in the Tampa Division of the United States District Court for the Middle District of Florida and brought several claims against nine named defendants, two unidentified Lake County Sheriff Department officers, and other unidentified Lake County officers. The named defendants include J.J. Dahl, an Assistant State Attorney; Rhonda Gerber, William Good, Richard Swartz, Catherine Hanson, and Welton Cadwell, Lake County Commissioners; George E. Knupp, the Sheriff of Lake County; and Ken Adams and John Guzman, deputies in the Lake County Sheriff's office. On June 25, 1999, the case was transferred to this Court (Doc. 24).

The facts, as can be discerned from the complaint, reveal the following details.
The Plaintiffs, Alicja Matczak ("Matczak") and Tadeusz Bohdziun ("Bohdzium"). Are recently naturalized United States citizens of Polish origin. (Doc. 1 at ¶ 40). On December 23, 1997, the Plaintiffs purchased a fourteen (14) acre residential lot in rural Lake County, Florida. (Doc. 1 at ¶ 5). After the purchase was finalized, the Plaintiffs attempted to inspect their property but found they could not enter because a locked gate blocked their access. (Doc. 1 at ¶ 6).

The Plaintiffs allege that Mark Chodos ("Chodos") was responsible for maintaining the locked

gate. See id. According to the Plaintiffs, Chodos informed them that the gate is located on a separate lot owned by Lake County and that he was authorized by Lake County to care for the property. See id. Chodos cited an Official Lake County Assessment Map that showed the location of the gate to be county property while depicting the Plaintiffs' lot as only ten (10) acres. The Plaintiffs asked Chodos to remove the lock or provide the key, but he refused and told them that he was "very good with guns" and threatened that the Plaintiffs "may get shot" if they attempted to enter the property. See id.

On December 30, 1997, the Plaintiffs went to the Lake County Zoning Department to apply for a building permit to install a manufactured home on their property. (Doc. 1 at ¶ 9). The Plaintiffs also inquired about the Official Lake County Assesment Map that showed their property as ten (10) acres. See id. The Zoning Inspector did not offer any explanation, but approved their plot plan and advised the Plaintiffs to report the "armed property hijacking" to the Lake County Sheriff's Department. See id.

The Plaintiffs then went to the Lake County Sheriff's Department to file a complaint against Chodos. (Doc. 1 at ¶ 10). They spoke with Detective Ken Adams ("Adams") and asked him to provide security to allow the Plaintiffs to enter their own property. (Doc. 1 ¶ 11). Adams refused and advised the Plaintiffs to file a civil law suit for possession of the land. See id. After examining the Plaintiffs' deed, Adams said, "If you believe its yours [sic] property, you can go there and cut the chain." See id. According to the Plaintiffs, Adams and the Lake County Sheriff's office ignored the death threats and have continued to refuse to provide any protection or security for the Plaintiffs. See id.

On February 7, 1998, the Plaintiffs purchased material to build a fence on their property. (Doc. 1 ¶ 15). Upon arrival at the lot, they found the gate locked, but they cut the chain and drove onto the property. See id. The Plaintiffs then began erecting a fence on the property, as well as "No Trespassing" signs. See id. While they were working on the fence, a man later identified as Darrell Judy ("Judy") approached them "screaming obscenities and death threats." (Doc. 1 at ¶ 17). Plaintiff Bohdziun pointed his gun at Judy and told him to leave their property. (Doc. 1 at ¶ 18). Judy began to leave, but stopped near the edge of the property and fired a gun in the Plaintiffs' direction. See id. The Plaintiffs then left their property to report the incident to the Lake County Sheriff's Department. (Doc. 1 at ¶ 19). Before leaving, they placed their own chain and lock on the gate. See id. After reporting the incident to the Sheriff's Department, the Plaintiffs returned to the property to find that their lock and chain had been removed. (Doc. 1 at ¶ 21). Present were Chados, Trilby Burket ("Burket"), Deputy John Guzman, and two unidentified Lake County Sheriff's Department officers. See id. Burket and Chodos had apparently been blocked by the Plaintiff's newly installed fence and could not pass through onto their properties. See id.

The Sheriff's Department officers placed the Plaintiffs in the back of their squad cars and detained them while Chodos and Burket dismantled the fence. (Doc. 1 at ¶ 22). The officers questioned the Plaintiffs about their national origin and told them that they were not allowed to fence property that they did not own. See id. Meanwhile, Judy returned to the scene and made a complaint to the officers about the Plaintiffs. Plaintiff Bohdziun was arrested for aggravated assault with a deadly weapon and was held in the Lake County jail. (Doc 1 at ¶ ¶ 23-24). He was

charged with aggravated assault with a deadly weapon by Defendant J.J. Dahl, Assistant State Attorney of the Fifth Judicial Circuit of Florida. (Doc. 1 at ¶ 25). The Plaintiff alleges that he was coerced to plead guilty to the less serious charge of improper exhibition of a firearm. (Doc. 1 at ¶ 27). The Plaintiff alleges that he was "coerced to plead guilty due to the fact that [his] acts do not constitute any illegal or criminal acts at all under State of Florida laws and under United States Constitution." See id.

Based on these facts, the Plaintiffs bring the following claims pursuant to 42 U.S.C. § § 1981, 1982, 1985, and 3604 for deprivation of civil and human rights conferred by the Second, Fourth, Fifth, Ninth, and Fourteenth amendments to the Constitution. The claims against Dahl arise from his refusal to prosecute for theft of real estate, uttering and forgery, armed trespassing, illegal dumping, death threats, solicitation, and attempted double murder. (Doc. 1 at ¶ 38). The Plaintiffs bring the same claims against Defendants Knupp, Adams, Guzman, and two unnamed Sheriff's Department officers for their refusal to enforce the laws. See id. In addition, the Plaintiffs claim that Defendants Knupp, Adams, and Guzman committed false imprisonment, assault and battery, armed trespassing, removal and theft of posted land notices, breaking or injuring fences, theft of fences, and official misconduct. See id.

In addition to these claims, the Plaintiffs bring claims pursuant to 42 U.S.C. § § 1981, 1982, 1985, and 3604 against County Commissioners Rhonda H. Gerber, William Good, Richard Swartz, Catherine Hanson, and Welton Cadwell for allowing Lake County officers to continuously discriminate against the Plaintiffs on the basis of their national origin. The Plaintiffs further allege that all defendants are in

conspiracy with Chodos, Judy, and Burket to hold and illegally use the Plaintiff's real property in violation of their civil rights. The Plaintiffs seek five million dollars in compensatory damages ($5,000,000), punitive damages, declaratory and injunctive relief, and the cost of litigation.

Standard

In passing on a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Court is mindful that "[d]ismissal of a claim on the basis of barebones pleadings is a precarious disposition with a high mortality rate." Int'l Erectors, Inc. V. Wilhoit Steel Erectors Rental Serv., 400 F.2d 465, 471 (5th Cir. 1968).
A complaint should not be dismissed for failure to state a claim unless it appears "beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45-46, 78 S. Ct. 99, 101-02, 2L.Ed 80 (1957). *See also* Cook & Nichol, Inc. V. The Plimsoll Club, 451 F.2d 505 (5th Cir. 1971). A complaint is sufficiently plead "if it shows that the Plaintiff is entitled to any relief that the Court can grant, regardless of whether it asks for the proper relief." Dotschay v. Nat. Mut. Inc. Co., 246 F.2d 221 (5th Cir. 1957).

Discussion

There are three motions to dismiss that have been filed on behalf of Defendants Knupp, Adams, Guzman, Gerber, Swartz, Hanson, Cadwell, Good, and Dahl. (Docs. 17, 20 and 25). The Defendants offer various reasons in support of their motions to dismiss, but all argue that the Plaintiffs' complaint fails to allege deprivation of a right, privilege or immunity that would allow recovery under federal civil rights

statutes. The Defendants' contend that the Plaintiffs do not have a constitutional right to have law enforcement officers enforce the laws according to the Plaintiff's wishes.

The Defendants cite DeShaney v. Winnebago County Department of Social Services, 489 U.S. 189, 195, 109 S. Ct. 998, 1002, 103 L.Ed. 249 (1989), in which the Supreme Court stated "nothing in the language of the Due Process Clause requires the State to protect the life, liberty, and property of its citizens against invasion by private actors." The Court further declared that the clause does not "impose an affirmative obligation on the State to ensure that those interests do not come to harm through other means." See id.

Defendants Knupp, Adams, and Guzman also assert that the Plaintiffs claims pursuant to 42 U.S.C. § 1981 should be dismissed because they have not alleged sufficient facts that establish that the Plaintiffs were discriminated against on the basis of their race or that the Defendants interfered with the Plaintiffs' right to make or enforce contracts. Section 1981 is designed to prohibit intentional race discrimination in the making and enforcement of public and private contracts and allegations of discriminatory intent are essential to a claim. Ferrill v. Parker Group, Inc., 168 F.3d 468, 472 (11th Cir. 1999). Though the Plaintiffs allege that they were generally mistreated on the basis of their national origin, the Defendants argue that the facts alleged are insufficient to support a claim pursuant under § 1981.

Likewise, Defendants contend that the Plaintiffs' claims pursuant to § 1982 are insufficient. 42 U.S.C. § 1982 provides: "[a]ll citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and

personal property". The Defendants assert that the Plaintiffs have failed to allege that they were subjected to racial discrimination or that the Defendants interfered in any way with their property right.

The Defendants further contend that protection under § 1982 is not available for individuals claiming to be victims of discrimination against their national origin. See Petrone v Reading 541 F. Supp 735 (E.D. Pa. 1982) (holding that § 1981 and § 1982 do not address discrimination on grounds of national origin, and absent allegations that the Italian-American Plaintiff was perceived as nonwhite his § 1981 and § 1982 claims would be dismissed), see also Budinsky v Corning Glass Works, 425 F. Supp. 786 (W.D. Pa. 1977) and Thomas v Rohner-Gehrig & Co., 582 F. Supp. 669 (N.D. III. 1984).

With regard to the Plaintiffs claims pursuant to § 1985, the Defendants argue that they are also due to be dismissed as they fail to state a claim upon which relief can be granted. A claim under § 1985 requires establishment of a "racial, or perhaps otherwise class-based, invidiously discriminatory animus behind the conspirators' action" which aims at a deprivation of the equal enjoyment of rights secured by the law. See Jackson v. Cox, 540 F.2d 209, 210 (5th Cir. 1976).[1] The Defendants contend that the complaint lacks any allegation of a class-based discriminatory animus that was behind the Defendants' actions.

Upon a review of the complaint, the Court agrees with the reasons stated by the Defendants and concludes that the Plaintiff has failed to state any federal or consitutional claim upon which relief can be

---

[1] Cases decided by the Fifth Circuit on or before September 30, 1981 are binding as precedent on the Eleventh Circuit and this Court. See Bonner v. City of Prichard, 661 F. 2d 1206, 1206 (11th Cir. 1981).

granted by this Court. The Court also notes that it would be futile to grant the Plaintiffs leave to amend the complaint. Accordingly and upon due consideration, the Defendants' motions to dismiss (Docs. 17, 20, and 25) are due to be Granted and the complaint should be dismissed.

Conclusion

Accordingly, and upon due consideration:

(1) Defendant Dahl's motion (Doc. 25) shall be deemed timely filed;

(2) the Defendants' motions to dismiss (Docs. 17, 20, and 25) are GRANTED and the complaint is DISMISSED; and

(3) the Clerk is directed to enter judgment accordingly, terminate all pending motions, and close the file.

IT IS SO ORDERED

DONE and ORDERED in Ocala, Florida, this 6th day of March, 2000.

/s/_____/
UNITED STATES DISTRICT JUDGE

Copy to Counsel of Record
Copy to *Pro Se* parties
Copy to Jim Leanhart

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"s/___".
2000 MAR 23 PM 2:25

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

ALICJA MATCZAK and
TADEUSZ BOHDZIUN,

Plaintiffs,

-vs- CASE NO. 5:99-cv-194-Oc-10C

J.J. DAHL, et al.,

Defendants.
_____/

ORDER

This case comes before the Court for consideration of the *pro se* Plaintiffs' motion for new trial (Doc. 45), to which the Defendant has responded (Doc. 46). The Plaintiffs' motion simply states that "[p]ursuant to Rule 59(a) and 38(a), Fed. R. Civ. P. Plaintiffs Alicja Matczak and Tadeusz Bohdziun respectfully requests [sic] the Court to grant NEW TRIAL and allow additional testimony." (Doc.45 at 1, emphasis in original).

In response, the Defendant argues that the Plaintiff's motion should be denied because it "does nothing other than make the request, but without any indication of error by this Honorable Court in its determination of facts or applications of law." (Doc.46 at 1). The Defendant further states that the Plaintiffs' motion is improper because the dismissal of this action rests on the Court's granting of the various motions to dismiss submitted by the Defendants in this case. (Doc. 46 at 1).

Accordingly, upon due consideration, the Plaintiff's motion for New Trial (Doc. 45) is DENIED.

IT IS SO ORDERED.

DONE and ORDERED in Ocala, Florida, this 23rd day of March, 2000.

"s/_____".
UNITED STATES DISTRICT JUDGE

Copy to Counsel of Record
Copy to *Pro Se* parties
Copy to Jim Leanhart

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"s/___".
2000 APR 20 PM 3:33
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

ALICJA MATCZAK and
TADEUSZ BOHDZIUN,

Plaintiffs,

-vs- CASE NO. 5:99-cv-194-Oc-10C

J.J. DAHL, et al.,

Defendants.
_____/

ORDER

This case comes before the Court for consideration of the *pro se* Plaintiffs' second Motion for New Trial (Doc. 50), to which the Defendants have responded (Doc. 51, 52 and 53). As the Defendants

point out, the Plaintiffs' motion fails to demonstrate any basis for the Court's reconsideration of its prior Order (Doc. 43) dismissing this action.

Accordingly, upon due consideration, the Plaintiffs' second Motion for New Trial (Doc. 50) is DENIED.

IT IS SO ORDERED.

DONE and ORDERED in Ocala, Florida, this 20th day of April, 2000.

"s/_____
UNITED STATES DISTRICT JUDGE

Copy to Counsel of Record
Copy to *Pro Se* parties

FILED
2000 MAY 16 AM 9:43 "s/___".

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

ALICJA MATCZAK and
TADEUSZ BOHDZIUN,

Plaintiffs,

-vs- CASE NO. 5:99-cv-194-Oc-10C

J.J. DAHL, et al.,

Defendants.
_____/

ORDER

This case comes before the Court for consideration of the *pro se* Plaintiffs' Third Motion for New Trial (Doc. 55), and accompanying exhibits. The Defendants have responded (Docs. 56, 57 and 58). As the Defendants argue, the Plaintiffs' motion fails to demonstrate any basis for the Court's reconsideration of its prior Order (Doc. 43) dismissing this action.

Accordingly, upon due consideration, the Plaintiffs' Third Motion for New Trial (Doc. 55) is DENIED.

IT IS SO ORDERED.

DONE and ORDERED in Ocala, Florida, this 16th day of May, 2000.

"s/_____".
UNITED STATES DISTRICT JUDGE

Copy to Counsel of Record
Copy to *Pro Se* parties

UNITED STATES CODE
TITLE 28

§1254. Courts of appeals; certiorari; certified questions

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:
(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

§1257. State courts; certiorari

(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari

where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

§1291. Final decisions of district courts

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title.

§1292. Interlocutory decisions

(a) Except as provided in subsections (c) and (d) of this section, the courts of appeals shall have jurisdiction of appeals from:

(1) Interlocutory orders of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, or of the judges thereof, granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions, except where a direct review may be had in the Supreme Court;

(2) Interlocutory orders appointing receivers, or refusing orders to wind up receiverships or to take

steps to accomplish the purposes thereof, such as directing sales or other disposals of property;
(3) Interlocutory decrees of such district courts or the judges thereof determining the rights and liabilities of the parties to admiralty cases in which appeals from final decrees are allowed.

(b) When a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The Court of Appeals which would have jurisdiction of an appeal of such action may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order: Provided, however, That application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or the Court of Appeals or a judge thereof shall so order.

(c) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction -
(1) of an appeal from an interlocutory order or decree described in subsection (a) or (b) of this section in any case over which the court would have jurisdiction of an appeal under section 1295 of this title; and
(2) of an appeal from a judgment in a civil action for patent infringement which would otherwise be appealable to the United States Court of Appeals for the Federal Circuit and is final except for an accounting.

(d)
(1) When the chief judge of the Court of International Trade issues an order under the provisions of section 256(b) of this title, or when any judge of the Court of International Trade, in issuing any other interlocutory order, includes in the order a statement that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation, the United States Court of Appeals for the Federal Circuit may, in its discretion, permit an appeal to be taken from such order, if application is made to that Court within ten days after the entry of such order.

(2) When the chief judge of the United States Court of Federal Claims issues an order under section 798(b) of this title, or when any judge of the United States Court of Federal Claims, in issuing an interlocutory order, includes in the order a statement that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation, the United States Court of Appeals for the Federal Circuit may, in its discretion, permit an appeal to be taken from such order, if application is made to that Court within ten days after the entry of such order.

(3) Neither the application for nor the granting of an appeal under this subsection shall stay proceedings in the Court of International Trade or in the Court of Federal Claims, as the case may be, unless a stay is ordered by a judge of the Court of International Trade or of the Court of Federal Claims or by the United

States Court of Appeals for the Federal Circuit or a judge of that court.

(4)
(A) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction of an appeal from an interlocutory order of a district court of the United States, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, granting or denying, in whole or in part, a motion to transfer an action to the United States Court of Federal Claims under section 1631 of this title.

(B) When a motion to transfer an action to the Court of Federal Claims is filed in a district court, no further proceedings shall be taken in the district court until 60 days after the court has ruled upon the motion. If an appeal is taken from the district court's grant or denial of the motion, proceedings shall be further stayed until the appeal has been decided by the Court of Appeals for the Federal Circuit. The stay of proceedings in the district court shall not bar the granting of preliminary or injunctive relief, where appropriate and where expedition is reasonably necessary. However, during the period in which proceedings are stayed as provided in this subparagraph, no transfer to the Court of Federal Claims pursuant to the motion shall be carried out.

(e) The Supreme Court may prescribe rules, in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the courts of appeals that is not otherwise provided for under subsection (a), (b), (c), or (d).

§2072. Rules of procedure and evidence; power to prescribe

(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrates thereof) and courts of appeals.

(b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

(c) Such rules may define when a ruling of a district court is final for the purposes of appeal under section 1291 of this title.

TITLE 42

§1981. Equal rights under the law

(a) Statement of equal rights

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

(b) "Make and enforce contracts" defined

For purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) Protection against impairment

The rights protected by this section are protected against impairment by nongovernmental

discrimination and impairment under color of State law.

§1982. Property rights of citizens
All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

§1983. Civil action for deprivation of rights
Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

§1985. Conspiracy to interfere with civil rights
(1) Preventing officer from performing duties
If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer

are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) Obstructing justice; intimidating party, witness, or juror

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or

securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

TITLE 18

§ 241. Conspiracy against rights

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured - They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in

violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

§ 242. Deprivation of rights under color of law
Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

FEDERAL RULES OF CIVIL PROCEDURE

Rule 38. Jury Trial of Right
(a) Right Preserved.
The right of trial by jury as declared by the Seventh Amendment to the Constitution or as given by a

statute of the United States shall be preserved to the parties inviolate.

Rule 54. Judgments; Costs
(a) Definition; Form.
"Judgment" as used in these rules includes a decree and any order from which an appeal lies. A judgment shall not contain a recital of pleadings, the report of a master, or the record of prior proceedings.

Rule 55. Default

(a) Entry.
When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default.

(b) Judgment.

Judgment by default may be entered as follows:
(1) By the Clerk.
When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, the clerk upon request of the plaintiff and upon affidavit of the amount due shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to appear and is not an infant or incompetent person.

American Convention on Human Rights, O.A.S.Treaty Series No. 36, 1144 U.N.T.S. 123 entered into force July 18, 1978, *reprinted in* Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992).

Article 1. Obligation to Respect Rights

1. The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.
2. For the purposes of this Convention, "person" means every human being.

Article 2. Domestic Legal Effects

Where the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms.

Article 3. Right to Juridical Personality

Every person has the right to recognition as a person before the law.

Article 4. Right to Life

1. Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.

Article 5. Right to Humane Treatment

1. Every person has the right to have his physical, mental, and moral integrity respected.

2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.
3. Punishment shall not be extended to any person other than the criminal.
4. Accused persons shall, save in exceptional circumstances, be segregated from convicted persons, and shall be subject to separate treatment appropriate to their status as unconvicted persons.
5. Minors while subject to criminal proceedings shall be separated from adults and brought before specialized tribunals, as speedily as possible, so that they may be treated in accordance with their status as minors.
6. Punishments consisting of deprivation of liberty shall have as an essential aim the reform and social readaptation of the prisoners.

Article 7. Right to Personal Liberty

1. Every person has the right to personal liberty and security.
2. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto.
3. No one shall be subject to arbitrary arrest or imprisonment.
4. Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him.
5. Any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without prejudice to the continuation of the proceedings. His

release may be subject to guarantees to assure his appearance for trial.
6. Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In States Parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court in order that it may decide on the lawfulness of such threat, this remedy may not be restricted or abolished. The interested party or another person in his behalf is entitled to seek these remedies.
7. No one shall be detained for debt. This principle shall not limit the orders of a competent judicial authority issued for nonfulfillment of duties of support.

Article 8. Right to a Fair Trial

1. Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.
2. Every person accused of a criminal offense has the right to be presumed innocent so long as his guilt has not been proven according to law. During the proceedings, every person is entitled, with full equality, to the following minimum guarantees:
a. the right of the accused to be assisted without charge by a translator or interpreter, if he does not understand or does not speak the language of the tribunal or court;

b. prior notification in detail to the accused of the charges against him;
c. adequate time and means for the preparation of his defense;
d. the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel;
e. the inalienable right to be assisted by counsel provided by the state, paid or not as the domestic law provides, if the accused does not defend himself personally or engage his own counsel within the time period established by law;
f. the right of the defense to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts;
g. the right not to be compelled to be a witness against himself or to plead guilty; and
h. the right to appeal the judgment to a higher court.
3. A confession of guilt by the accused shall be valid only if it is made without coercion of any kind.
4. An accused person acquitted by a nonappealable judgment shall not be subjected to a new trial for the same cause.
5. Criminal proceedings shall be public, except insofar as may be necessary to protect the interests of justice.

Article 9. Freedom from Ex Post Facto Laws

No one shall be convicted of any act or omission that did not constitute a criminal offense, under the applicable law, at the time it was committed. A heavier penalty shall not be imposed than the one that was applicable at the time the criminal offense was committed. If subsequent to the commission of the offense the law provides for the imposition of a lighter punishment, the guilty person shall benefit therefrom.

Article 10. Right to Compensation

Every person has the right to be compensated in accordance with the law in the event he has been sentenced by a final judgment through a miscarriage of justice.

Article 11. Right to Privacy

1. Everyone has the right to have his honor respected and his dignity recognized.
2. No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.
3. Everyone has the right to the protection of the law against such interference or attacks.

Article 18. Right to a Name

Every person has the right to a given name and to the surnames of his parents or that of one of them. The law shall regulate the manner in which this right shall be ensured for all, by the use of assumed names if necessary.

Article 21. Right to Property

1. Everyone has the right to the use and enjoyment of his property. The law may subordinate such use and enjoyment to the interest of society.
2. No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases and according to the forms established by law.
3. Usury and any other form of exploitation of man by man shall be prohibited by law.

Article 24. Right to Equal Protection

All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.

Article 25. Right to Judicial Protection

1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.
2. The States Parties undertake:
a. to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state;
b. to develop the possibilities of judicial remedy; and
c. to ensure that the competent authorities shall enforce such remedies when granted

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UNITED NATIONS

Universal Declaration of Human Rights

Article I

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any

kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1.Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.

2.No one shall be held guilty of any penal offence on account ~~of any act~~ or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

CONSTITUTION
OF THE
STATE OF FLORIDA
AS REVISED IN 1968 AND SUBSEQUENTLY AMENDED

SECTION 2. Basic rights.
All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

SECTION 4. Freedom of speech and press.
Every person may speak, write and publish sentiments on all subjects but shall be responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for defamation the truth may be given in evidence. If the matter charged as defamatory is true and was published with good motives, the party shall be acquitted or exonerated.

SECTION 5. Right to assemble.
The people shall have the right peaceably to assemble, to instruct their representatives, and to petition for redress of grievances.

SECTION 8. Right to bear arms.
(a) The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law.

SECTION 9. Due process.
No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against oneself.

SECTION 12. Searches and seizures.
The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated. No warrant shall be issued except upon probable cause, supported by affidavit, particularly describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained. This right shall be construed in conformity with the 4th Amendment to the United States Constitution, as interpreted by the United States Supreme Court. Articles or information obtained in violation of this right shall not be admissible in evidence if such articles or information would be inadmissible under decisions of the United States Supreme Court construing the 4th Amendment to the United States Constitution.

SECTION 21. Access to courts.
The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

SECTION 22. Trial by jury.
The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law.

SECTION 23. Right of privacy.
Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law.

The 1998 Florida Statutes

790.25 Lawful ownership, possession, and use of firearms and other weapons.
(1) DECLARATION OF POLICY.--The Legislature finds as a matter of public policy and fact that it is necessary to promote firearms safety and to curb and prevent the use of firearms and other weapons in crime and by incompetent persons without prohibiting the lawful use in defense of life, home, and property, and the use by United States or state military organizations, and as otherwise now authorized by law, including the right to use and own firearms for target practice and marksmanship on target practice ranges or other lawful places, and lawful hunting and other lawful purposes.
(2) USES NOT AUTHORIZED.--
(a) This section does not authorize carrying a concealed weapon without a permit, as prohibited by ss. 790.01 and 790.02.

(b) The protections of this section do not apply to the following:
1. A person who has been adjudged mentally incompetent, who is addicted to the use of narcotics or any similar drug, or who is a habitual or chronic alcoholic, or a person using weapons or firearms in violation of ss. 790.07-790.12, 790.14-790.19, 790.22-790.24;
2. Vagrants and other undesirable persons as defined in ¹s. 856.02;
3. A person in or about a place of nuisance as defined in s. 823.05, unless such person is there for law enforcement or some other lawful purpose.
(3) LAWFUL USES.--The provisions of ss. 790.053 and 790.06 do not apply in the following instances, and, despite such sections, it is lawful for the following persons to own, possess, and lawfully use firearms and other weapons, ammunition, and supplies for lawful purposes:
(a) Members of the Militia, National Guard, Florida State Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard, organized reserves, and other armed forces of the state and of the United States, when on duty, when training or preparing themselves for military duty, or while subject to recall or mobilization;
(b) Citizens of this state subject to duty in the Armed Forces under s. 2, Art. X of the State Constitution, under chapters 250 and 251, and under federal laws, when on duty or when training or preparing themselves for military duty;
(c) Persons carrying out or training for emergency management duties under chapter 252;
(d) Sheriffs, marshals, prison or jail wardens, police officers, Florida highway patrol officers, game wardens, revenue officers, forest officials, special officers

appointed under the provisions of chapter 354, and other peace and law enforcement officers and their deputies and assistants and full-time paid peace officers of other states and of the Federal Government who are carrying out official duties while in this state;
(e) Officers or employees of the state or United States duly authorized to carry a concealed weapon;
(f) Guards or messengers of common carriers, express companies, armored car carriers, mail carriers, banks, and other financial institutions, while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state;
(g) Regularly enrolled members of any organization duly authorized to purchase or receive weapons from the United States or from this state, or regularly enrolled members of clubs organized for target, skeet, or trap shooting, while at or going to or from shooting practice; or regularly enrolled members of clubs organized for modern or antique firearms collecting, while such members are at or going to or from their collectors' gun shows, conventions, or exhibits;
(h) A person engaged in fishing, camping, or lawful hunting or going to or returning from a fishing, camping, or lawful hunting expedition;
(i) A person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person while engaged in the lawful course of such business;
(j) A person firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law or going to or from such place;
(k) A person firing weapons in a safe and secure indoor range for testing and target practice;
(l) A person traveling by private conveyance when the weapon is securely encased or in a public conveyance

when the weapon is securely encased and not in the person's manual possession;
(m) A person while carrying a pistol unloaded and in a secure wrapper, concealed or otherwise, from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business;
(n) A person possessing arms at his or her home or place of business;
(o) Investigators employed by the several public defenders of the state, while actually carrying out official duties, provided such investigators:
1. Are employed full time;
2. Meet the official training standards for firearms established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(5) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and
3. Are individually designated by an affidavit of consent signed by the employing public defender and filed with the clerk of the circuit court in the county in which the employing public defender resides.
(p) Investigators employed by the capital collateral representative, while actually carrying out official duties, provided such investigators:
1. Are employed full time;
2. Meet the official training standards for firearms as established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(1) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and
3. Are individually designated by an affidavit of consent signed by the capital collateral representative and filed with the clerk of the circuit court in the county in which the investigator is headquartered.

(4) CONSTRUCTION.--This act shall be liberally construed to carry out the declaration of policy herein and in favor of the constitutional right to keep and bear arms for lawful purposes. This act is supplemental and additional to existing rights to bear arms now guaranteed by law and decisions of the courts of Florida, and nothing herein shall impair or diminish any of such rights. This act shall supersede any law, ordinance, or regulation in conflict herewith.
(5) POSSESSION IN PRIVATE CONVEYANCE.--Notwithstanding subsection (2), it is lawful and is not a violation of s. 790.01 for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. Nothing herein contained prohibits the carrying of a legal firearm other than a handgun anywhere in a private conveyance when such firearm is being carried for a lawful use. Nothing herein contained shall be construed to authorize the carrying of a concealed firearm or other weapon on the person. This subsection shall be liberally construed in favor of the lawful use, ownership, and possession of firearms and other weapons, including lawful self-defense as provided in s. 776.012.

776.012 Use of force in defense of person.
A person is justified in the use of force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against such other's imminent use of unlawful force. However, the person is justified in the use of deadly force only if he or she reasonably believes that such force is necessary to prevent imminent death or great

bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony.

776.031 Use of force in defense of others.
A person is justified in the use of force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to prevent or terminate such other's trespass on, or other tortious or criminal interference with, either real property other than a dwelling or personal property, lawfully in his or her possession or in the possession of another who is a member of his or her immediate family or household or of a person whose property he or she has a legal duty to protect. However, the person is justified in the use of deadly force only if he or she reasonably believes that such force is necessary to prevent the imminent commission of a forcible felony.

776.08 Forcible felony.
"Forcible felony" means treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

810.09 Trespass on property other than structure or conveyance.
(1)(a) A person who, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:
1. As to which notice against entering or remaining is given, either by actual communication to the offender

or by posting, fencing, or cultivation as described in s. 810.011; or

2. If the property is the unenclosed curtilage of a dwelling and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass, commits the offense of trespass on property other than a structure or conveyance.
(b) As used in this section, the term "unenclosed curtilage" means the unenclosed land or grounds, and any outbuildings, that are directly and intimately adjacent to and connected with the dwelling and necessary, convenient, and habitually used in connection with that dwelling.
(2) (a) Except as provided in this subsection, trespass on property other than a structure or conveyance is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(b) If the offender defies an order to leave, personally communicated to the offender by the owner of the premises or by an authorized person, or if the offender willfully opens any door, fence, or gate or does any act that exposes animals, crops, or other property to waste, destruction, or freedom; unlawfully dumps litter on property; or trespasses on property other than a structure or conveyance, the offender commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(c) If the offender is armed with a firearm or other dangerous weapon during the commission of the offense of trespass on property other than a structure or conveyance, he or she is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any owner or person authorized by the owner may, for prosecution purposes, take into custody and detain, in a reasonable manner, for a reasonable length of time,

any person when he or she reasonably believes that a violation of this paragraph has been or is being committed, and that the person to be taken into custody and detained has committed or is committing such violation. In the event a person is taken into custody, a law enforcement officer shall be called as soon as is practicable after the person has been taken into custody. The taking into custody and detention in compliance with the requirements of this paragraph does not result in criminal or civil liability for false arrest, false imprisonment, or unlawful detention.

(d) The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed is a construction site that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(e) The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is commercial horticulture property and the property is legally posted and identified in substantially the following manner: "THIS AREA IS DESIGNATED COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(f) Any person who in taking or attempting to take any animal described in s. 372.001(3) or (4), or in killing, attempting to kill, or endangering any animal described in s. 585.01(13) knowingly propels or causes to be propelled any potentially lethal projectile over or across private land without authorization commits trespass, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this paragraph, the term "potentially lethal

projectile" includes any projectile launched from any firearm, bow, crossbow, or similar tensile device. This section shall not apply to any governmental agent or employee acting within the scope of his or her official duties.

812.012 Definitions. As used in ss. 812.012-812.037:
(1) "Dealer in property" means any person in the business of buying and selling property.
(2) "Obtains or uses" means any manner of:
(a) Taking or exercising control over property.
(b) Making any unauthorized use, disposition, or transfer of property.
(c) Obtaining property by fraud, willful misrepresentation of a future act, or false promise.
(d)1. Conduct previously known as stealing; larceny; purloining; abstracting; embezzlement; misapplication; misappropriation; conversion; or obtaining money or property by false pretenses, fraud, or deception; or
2. Other conduct similar in nature.
(3) "Property" means anything of value, and includes:
(a) Real property, including things growing on, affixed to, and found in land.
(b) Tangible or intangible personal property, including rights, privileges, interests, and claims.
(c) Services.
(4) "Property of another" means property in which a person has an interest upon which another person is not privileged to infringe without consent, whether or not the other person also has an interest in the property.
(5) "Services" means anything of value resulting from a person's physical or mental labor or skill, or from the use, possession, or presence of property, and includes:
(a) Repairs or improvements to property.
(b) Professional services.

(c) Private, public, or government communication, transportation, power, water, or sanitation services.
(d) Lodging accommodations.
(e) Admissions to places of exhibition or entertainment.
(6) "Stolen property" means property that has been the subject of any criminally wrongful taking.
(7) "Traffic" means:
(a) To sell, transfer, distribute, dispense, or otherwise dispose of property.
(b) To buy, receive, possess, obtain control of, or use property with the intent to sell, transfer, distribute, dispense, or otherwise dispose of such property.
(8) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity.
(9) "Value" means value determined according to any of the following:
(a)1. Value means the market value of the property at the time and place of the offense or, if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense.
2. The value of a written instrument that does not have a readily ascertainable market value, in the case of an instrument such as a check, draft, or promissory note, is the amount due or collectible or is, in the case of any other instrument which creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation, the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

3. The value of a trade secret that does not have a readily ascertainable market value is any reasonable value representing the damage to the owner, suffered by reason of losing an advantage over those who do not know of or use the trade secret.
(b) If the value of property cannot be ascertained, the trier of fact may find the value to be not less than a certain amount; if no such minimum value can be ascertained, the value is an amount less than $100.
(c) Amounts of value of separate properties involved in thefts committed pursuant to one scheme or course of conduct, whether the thefts are from the same person or from several persons, may be aggregated in determining the grade of the offense.

812.014 Theft.
(1) A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to, either temporarily or permanently:
(a) Deprive the other person of a right to the property or a benefit from the property.
(b) Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.
(2)(a)1. If the property stolen is valued at $100,000 or more; or
2. If the offender commits any grand theft and:
a. In the course of committing the offense the offender uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense and thereby damages the real property of another; or
b. In the course of committing the offense the offender causes damage to the real or personal property of another in excess of $1,000, the offender commits grand theft in the first degree, punishable as a felony

of the first degree, as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) If the property stolen is valued at $20,000 or more, but less than $100,000, the offender commits grand theft in the second degree, punishable as a felony of the second degree, as provided in s. 775.082, s. 775.083, or s. 775.084.
(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:
1. Valued at $300 or more, but less than $5,000.
2. Valued at $5,000 or more, but less than $10,000.
3. Valued at $10,000 or more, but less than $20,000.
4. A will, codicil, or other testamentary instrument.
5. A firearm.
6. A motor vehicle, except as provided in [1]subparagraph (2)(a).
7. Any commercially farmed animal, including any animal of the equine, bovine, or swine class, or other grazing animal, and including aquaculture species raised at a certified aquaculture facility. If the property stolen is aquaculture species raised at a certified aquaculture facility, then a $10,000 fine shall be imposed.
8. Any fire extinguisher.
9. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.
10. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(d).
(d) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is valued at $100 or more, but less than $300, and is taken from a dwelling as defined in s. 810.011(2) or from the unenclosed curtilage of a dwelling pursuant to s. 810.09(1).

(e) Except as provided in paragraph (d), if the property stolen is valued at $100 or more, but less than $300, the offender commits petit theft of the first degree, punishable as a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.
(3)(a) Theft of any property not specified in subsection (2) is petit theft of the second degree and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
(b) A person who commits petit theft and who has previously been convicted of any theft commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(c) A person who commits petit theft and who has previously been convicted two or more times of any theft commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.
(d)1. Every judgment of guilty or not guilty of a petit theft shall be in writing, signed by the judge, and recorded by the clerk of the circuit court. The judge shall cause to be affixed to every such written judgment of guilty of petit theft, in open court and in the presence of such judge, the fingerprints of the defendant against whom such judgment is rendered. Such fingerprints shall be affixed beneath the judge's signature to such judgment. Beneath such fingerprints shall be appended a certificate to the following effect: "I hereby certify that the above and foregoing fingerprints on this judgment are the fingerprints of the defendant, _____, and that they were placed thereon by said defendant in my presence, in open court, this the _____ day of _____, 19_____."
Such certificate shall be signed by the judge, whose signature thereto shall be followed by the word "Judge."
2. Any such written judgment of guilty of a petit theft, or a certified copy thereof, is admissible in evidence in

the courts of this state as prima facie evidence that the fingerprints appearing thereon and certified by the judge are the fingerprints of the defendant against whom such judgment of guilty of a petit theft was rendered.
(4) Failure to comply with the terms of a lease when the lease is for a term of 1 year or longer shall not constitute a violation of this section unless demand for the return of the property leased has been made in writing and the lessee has failed to return the property within 7 days of his or her receipt of the demand for return of the property. A demand mailed by certified or registered mail, evidenced by return receipt, to the last known address of the lessee shall be deemed sufficient and equivalent to the demand having been received by the lessee, whether such demand shall be returned undelivered or not.

839.25 Official misconduct.
(1) "Official misconduct" means the commission of the following act by a public servant, with corrupt intent to obtain a benefit for himself or herself or another or to cause unlawful harm to another: knowingly falsifying, or causing another to falsify, any official record or official document.
(2) "Corrupt" means done with knowledge that act is wrongful and with improper motives.
(3) Official misconduct under this section is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.